IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

W.P. NO. 1075 (MS) OF 2004

Preetam Kaur …Petitioner.

Versus

Prescribed Authority/C.J. (S.D.) and others……Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri Sharad Sharma counsel for the petitioner and Sri Nand Prasad, standing counsel.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 16th June, 2004 passed by the respondent no. 1.

Briefly stated, the suit under Section 21 (1) (A) of U.P. Act No. 13 of 1972 was field by the respondent no. 2 Sri Vijay Kumar Gupta praying for the release of the accommodation. In paragraph 6 of the application, it has been mentioned that landlord has purchased the shop on 23rd May, 2001 from Sri Suresh Chandra Jain and others and the property is under the tenancy of the petitioner at the rate of Rs. 71.53 paise per month. In paragraph no. 12 of the application, further statement has been made that the landlord after purchasing the property in dispute gave a 6 months notice on 10.12.2001 asking the opposite party to vacate the shop under his tenancy and deliver the possession thereof to the landlord.

During the pendency of the case, an application has been filed on behalf of the petitioner stating therein in paragraph 3 that there is no relationship of landlord and tenant between the parties. The said application has been disposed of by the Prescribed Authority by rejecting the same.

A perusal of the record shows that the petitioner has not yet filed the written statement as well as the affidavits which are required to be filed in proceedings under Section 21 (1) (a) of the U.P. Act No. 13 of 1972 and as such any objections at this stage before filing the written statement is premature.

Liberty is given to the petitioner to raise the objections before the Prescribed Authority by filing a written statement or in the form of the affidavits and if the objections filed taken, the same shall be disposed of by the Prescribed Authority while deciding the case itself on merits.

Subject to the aforesaid observation, writ petition is disposed of.

03.11.2004 (RAJESH TANDON, J.)

P.S.R.